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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,079	12/20/2001	Andrew Hudz	61847-013 (SNML-111)	9866
7590	03/05/2004		EXAMINER	
Mark G. Lappin McDERMOTT, WILL & EMERY 28 State Street Boston, MA 02109			TRAN, KHOA H	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/027,079	HUDZ ET AL.
	Examiner	Art Unit
	Khoa Tran	3634

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 October 2003 and 18 November 2003.

2a) This action is **FINAL**.                                   2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21,24-34,36,37 and 39-48 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-21,24-34,36,37 and 39-48 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                                   4) Interview Summary (PTO-413)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   Paper No(s)/Mail Date. \_\_\_\_\_.  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/12/03.                                   5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 16, 19-21, 34, 36, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917) and Chong. Walter et al. ('756) disclose a rack for electrical equipment comprising a base (16) having circular access apertures, two side channels (20A', 20B') connected to sidewalls and a bottom plate, mounting apertures on the bottom plate for securing the base to a floor (see Figures 3-5), a pair of vertically extended upright members (12A and 12B) each having a web portion and opposing first and second flange members projected from the web portion (see Figure 3), a plurality of openings in the web portion for mounting electrical equipment thereon, a cross member (14) extending between upper ends of the upright members, wherein the second flange of the upright members each including a wider lower portion extending upwardly from a lower end of the upright member and an upper portion that is less wide than the lower portion extending downwardly from an upper end of the upright member and a tapered portion tapering toward the web portion between the lower and upper portions. Walter et al. ('756) do not teach a base that has an angle insert having a horizontal plate that is parallel to the base and a vertical plate that is parallel to the vertical upright member, a cut-out that

accommodates the vertical upright members, and a central channel extending between two side channels. However, Mendoza ('917) teaches a base (24) having end walls and a bottom plate (300), the base further comprises two angle inserts (302) that each has a vertical plate with a cut-out portion that retains respective vertical upright member (102) therebetween and a horizontal plate that is parallel to the base bottom plate (300). See Figures 13 and 14. Mendoza ('917) also teaches the base having a top wall (404) with access openings (412) extending horizontally from end walls above the bottom plate, wherein the end walls are secured to and extended between opposing first and second flanges (110). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base of Walter et al. ('756) with the provision of angle inserts and cut-outs as taught by Mendoza ('917) in order to secure the vertical upright members therein and to meet Zone 4 of the earthquake standards. With respect to the central channel, note that the open space defined by the upstanding side and end walls constitute a "channel" and thus a "central channel" is present. Nevertheless, Chong teaches an enclosed central channel (14) being at least in contact with two opposing ends of two side channels (30 and 34). See Figure 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the two side channels of the modified base of Walter et al. ('756) in view of Mendoza ('917) with the provision of a central channel as taught by Chong in order to accommodate wiring therethrough.

Claims 1-6, 9-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917) and Chong as applied

to claims 14, 16, 19-21, 34, 36, 37, and 39 above, and further in view of Serban ('590). Serban ('590) teaches reinforce stiffening plates (24, 26) that secure flat against interior surfaces of flanges (34, 36) of the upright members (14, 16). See Figure 4. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the lower portions of upright members of Walter et al. ('756) in view of Mendoza ('917) and Chong with reinforce stiffening plates as taught by Serban ('590) in order to strengthen the rack frame to withstand lateral forces throughout its vertical orientation during seismic activity. With respect to claim 3, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the reinforce plate to be approximately about one-fifth the height of the upright member for a particular application thus producing no new and unexpected results.

Claims 1-13, 15, 17, 18, 24-33, and 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917) and Chong as applied to claims 14, 16, 19-21, 34, 36, 37, and 39 above, and further in view of Rinderer ('956). Rinderer ('956) teaches a brace member (62) secures to a cross-member (32) and extending through a web portion (34) of each upright member (30) and secures to one of the flanges (40) of each upright member, see Figures 1, 2, and 5. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the cross member of Walter et al. ('756) in view of Mendoza ('917) and Chong with the provisions of braces attached to each upright members as taught by

Rinderer ('956) in order to rigidify the connection between the cross member and the upright members to resist forces that might cause failure to the rack frame during an earthquake condition. With respect to claims 1 and 40, Rinderer ('956) also teaches a separate flange reinforcing plates (44) secure flat against the interior surfaces of flanges (36, 40) of the upright members and extending vertically from the lower end portions of the upright members (30), see Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the upright members lower end portions of Walter et al. ('756) in view of Mendoza ('917) and Chong with the provisions of separate flange reinforcing plates as taught by Rinderer ('956) in order to add strength to the upright members and to resist the whipping or twisting action of the upright members in an earthquake condition. With respect to claims 3, 33, and 42, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the reinforce plate to be approximately about one-fifth the height of the upright member and to routinely dimension the brace length to be equal to at least one quarter a length of the cross member for a particular application thus producing no new and unexpected results.

#### ***Response to Arguments***

Applicants' arguments with respect to claims 1-21, 24-34, 36, 37, and 39-48 have been considered but are moot in view of the new grounds of rejection.

With respect to applicants' arguments that the applied references or combinations thereof fail to teach a central channel having two opposite ends being in contact with two opposing ends of the two side channels, it should be noted that Chong, as advanced above, teaches a central channel having two opposite ends being in contact with two opposing ends of the two side channels. See Figure 7. Further, "central channel" is structurally undefined and is not seem to even distinguish from the open space traversing the space between the openings of the two side channels, e.g., see Figure 4 of Walter et al.

With respect to applicants' argument to the 35 U.S.C. 112, first paragraph, rejection, it appears that Figure 1 does, in fact, illustrate the end walls having two opposite ends that are secured to the second flanges of the upright members. Therefore, the Section 112, first paragraph, rejection has been withdrawn.

The new grounds of rejection were necessitated by applicants' amendment, e.g., the central channel having two opposite ends being "at least in contact" with two opposing end of the two side channels, in claim 14, line 21, claim 34, line 16, and claim 40, line 23.

Applicants' amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group before a final Office action is (703) 872-9306 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khoa Tran

February 7, 2004



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